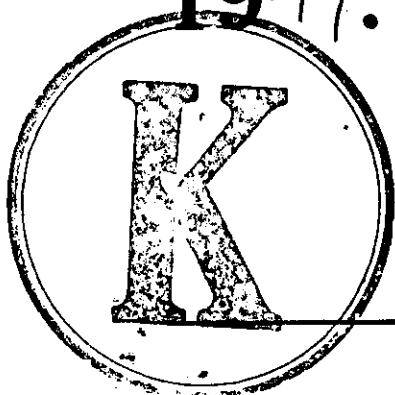


K 2
31-5-56

1947.



File No. B. Probation
of offenders/47

P 16 F Legal

DEPARTMENT

B. BRANCH

Subject:—

L. A. Bill No XXXVII of 1947

A Bill to amend the Bombay
Probation of offenders Act, 1938.

Bombay Act No XXXVIII
of 1947.

File No. B. Probation of offenders/47

Std. Sectt. Slip 24 B e.

577-B

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Legal Department File No.8. Probation of Offenders/1947.

Sr. No.	Compilation No.	Subject.	Pages.
A Bill to amend the Bombay Probation of Offenders Act, 1938.			
1.	U.R. to H.D., No. 7643, dated 24-7-47.	Remarks on the Revised draft Bill. . . .	1-4.
2.	G.L. L.D., No. 10968, dt. 10-11-47.	Seeking Governor's assent. . . .	5-6.
3.	L.D. R.I. No. 14108, dt. 26-11-47.	Forwarding an authentic copy of the Act. . . .	7-8.
4.	G.R., L.D., No. 8888, dt. 1-9-47.	Publication of the Bill. . . .	9-14. (pp. 11-14 not copied)
5.	G.R., L.D., No. 11376, dated 28-11-47.	Publication of the Act. . . .	15-20. (pp. 17-20 not copied)
6.	----	Debates. . . .	21-22 (not copied)

Br
24-5-56

The requisite draft Bill and a revised Statement of Objects and Reasons are sent herewith.

2. With the deletion of the proposed words, namely, "within the local limits of its jurisdiction", the proviso to sub-section (1) of section 5 of the Bombay Probation of Offenders Act, 1933, would read as follows:-

"Provided that the Court shall not pass a probation order under this section unless it is satisfied that the offender or one of his sureties (if any) has a fixed place of abode or regular occupation and is likely to continue to have such place of abode or such occupation during the period of the bond."

The proposed deletion of the words "within the local limits of its jurisdiction" from the proviso to section 5(1) would make no meaning. When the proviso was enacted, the intention of the Legislature was against the passing of a probation order unless the offender or the surety resided or carried on his occupation within the local limits of the jurisdiction of the Court. It is doubtful if the Legislature would ever intend that a probation order should extend even to cases where sureties lived far away from the jurisdiction of the Court and might go on changing abodes and occupations during ~~the~~ different parts of the period of the bond. I think that it would be much better to delete the entire proviso rather than the words "within the local limits of its jurisdiction" from it, since no Court is likely to accept as surety a person who has no fixed abode anywhere or carries on no regular occupation anywhere. It is within the power of a Court, under section 122(1) of the Code of Criminal Procedure, 1898, to reject such a person as a surety who has no fixed place of residence and no fixed regular occupation. Section 122 of the Code of Criminal Procedure has been made applicable to the

case of sureties given under the Probation of Offenders Act, by section 9 of the said Act.

3. With regard to the portion marked 'X' on p.65, namely, the suggestion made by the Chief Presidency Magistrate in para.1 of his letter at p.31, I do not understand it. He suggests that in the amending Act the substance of section 562 of the Criminal Procedure Code may be incorporated in the amendment. It is not necessary to incorporate the provisions of section 562 of the Criminal Procedure Code in the amendment. The provisions of section 4 of Bom. XIX of 1933 are quite liberal, contemplating, as they do, the release of a first offender on admonition only. Section 5(1) provides for the release of an offender on probation of good conduct and on such offender entering into a bond. This provision is more or less analogous to the provisions of section 562 of the Code of Criminal Procedure. It is, therefore, scarcely necessary to incorporate section 562 Criminal Procedure Code or provisions thereof in the draft Bill.

4. The subject-matter of the proposed Bill falls under entries 2 and 15 in List III in the Seventh Schedule to the Government of India Act, 1935. As the Bill does not contain any provisions repugnant to the provisions of an earlier Federal law or an existing Indian law relating to a concurrent matter, it will not be necessary to reserve the Bill for the consideration of the Governor General under section 107(2) of the Government of India Act, 1935.

5. The Bill does not affect any special responsibility of the Governor under section 52(1) of the Government of

India

India Act, 1935 or require his sanction thereunder.

Gd. D.V.Vyas

Remembrancer of Legal Affairs.

U.R.to H.D., No. 7649, dated the 24th July 1947. ,

MRP.
17/6/56.

No. 10968.

Legal Department,
Bombay Castle, 13th November 1947.

From

P. H. Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay;

To

The Private Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Probation
of Offenders Act, 1933.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for the ~~assent~~ assent of His Excellency the Governor, an authentic copy of a Bill to amend the Bombay Probation of Offenders Act, 1933, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 12th September 1947 and on the 17th October 1947, respectively.

2. The subject-matter of the Bill falls under entries 2 and 16 in List III in the Seventh Schedule to the Government of India Act, 1935.

3. The Bill does not contain any provision repugnant to the provisions ~~and~~ of an earlier Dominion law or an existing law with respect to any of the matters enumerated in the Concurrent Legislative List. It is not therefore necessary to reserve the Bill for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935.

4. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

5. I am also to forward herewith one copy of

-
1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
 2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.
 3. Bill as read for the third time and passed by the Bombay Legislative Council.
 4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 13th September 1947 and of the Bombay Legislative Council dated the 17th October 1947.
-

each of
the
papers
noted in
the margin.
The Bill
was not
referred
to a

Select Committee.

I have the honour to be ,

Sir,

Your most obedient servant,

Sd. P.M.Lad,

Secretary to the Government of Bombay,
Legal Department.

Through

The Secretary to the Government of Bombay,
Home Department.

HRP.
17/5/56.

No.P.S.G.5504.

Office of the Private Secretary to the Governor,
Government House,
Bombay, 24th November 1947.

From

L.E.Bagshawe, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department.

Subject:- The Bombay Probation of Offenders
(Amendment) Bill, 1947.

Sir,

With reference to your letter No.10968, dated the 18th November 1947, I am directed to return herewith, with His Excellency the Governor's assent signified thereon, the copy of the Bombay Probation of Offenders (Amendment) Bill, 1947.

Your obedient servant,

Sd. L.E.Bagshawe,
Private Secretary to the Governor of Bombay.

MBP.
17/5/56.

Bill.

A Bill to amend the Bombay
Probation of Offenders Act, 1938.

GOVERNMENT OF BOMBAY.

Legal Department.

Resolution No. 8888.

Bombay Castle, 1st September 1947.

Memorandum from the Home Department No. 2668/4-II-C,
dated the 28th August 1947 -- Transferring for necessary
action, the papers relating to a Bill to amend the Bombay
Probation of Offenders Act, 1938.

RESOLUTION.- The Bill with the Statement of Objects
and Reasons should be forwarded to the Manager, Government
Central Press, Bombay, for publication in the Bombay
Government Gazette, dated the 1st September 1947, as Bill
No. XXXVII of 1947.

2. The Bill and the Statement of Objects and Reasons
should be translated into Marathi, Gujarati, Kannada and
Hindustani (in Urdu and Devnagari scripts) and the
translations should be published in the Bombay Government
Gazette, on the 6th September 1947.

3. The dates of the various publications should be
reported to the Secretary to the Bombay Legislature
Department.

By order of the Governor of Bombay,

Sd. S.B. Paloker,

For Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the
Bill and Statement of Objects and Reasons and with
a request that 250 Gazette Copies of the Bill and
the Statement of Objects and Reasons may be forwarded
to the Secretary to the Bombay Legislature Department
for distribution to the Members of the Bombay
Legislative Assembly and ~~25~~ 25 copies for use of
the Legal Department and 20 copies for the use of
the Home Department).

The Home Department.	)	With a copy
* The Oriental Translator to Government.	)	of the Bill
The Bombay Legislature Department.	)	and Statement
The Director of Publicity, Bombay.	)	of Objects
		and Reasons..

*With five extra copies of the Bill.

Acts.

Publication of the Bombay Probation
of Offenders (Amendment) Act, 1947.

GOVERNMENT OF BOMBAY.

Legal Department.

Resolution No. 11376.

Bombay Castle, 23th November 1947.

Letter to the Private Secretary to the Governor,
No. 10368, dated the 18th November 1947.

Letter from the Private Secretary to the Governor,
No. P.S.G. 5504, dated the 24th November 1947:-

"With reference to your letter No. 10368,
dated the 13th November 1947, I am directed to
return herewith, with His Excellency the Governor's
assent signified thereon, the copy of the Bombay
Probation of Offenders (Amendment) Bill, 1947."

RESOLUTION:- The law should be published as
Bombay Act No. XXXVIII of 1947, in the Bombay Government
Gazette dated the 23th November 1947.

2. The Act should be translated in Marathi,
Gujarati, Kannada and Hindustani (in Urdu and Devnagari
scripts) and the translations should be published in
the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the
Home Department with reference to the Memorandum from
that Department No. 2663/4-II-C, dated the 28th August
1947.

By order of the Governor of Bombay,

Sd. S.B. Pallickar,

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a
copy of the Act and with a request that 30 Gazette
copies of the Act may be forwarded to the Legal
Department).

The Home Department,	}	with a copy of the Act.
*The Oriental Translator to Government,		
The Bombay Legislature Department,		
The Director of Publicity, Bombay,		

*With five extra copies of the Act.

L. A. BILL No. XXXVII OF 1947.

A Bill to amend the Bombay Probation of Offenders Act, 1938.

(As read for the third time and passed by the Legislative Assembly on the 12th September 1947.)

Bom. XIX
of 1938.

WHEREAS it is expedient to amend the Bombay Probation of Offenders Act, 1938, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Probation of Offenders (Amendment) Act, 1947. Short title.

Bom. XIX
of 1938.

2. The proviso to sub-section (1) of section 5 of the Bombay Probation of Offenders Act, 1938, shall be deleted. Amendment of section 5 of Bom. XIX of 1938.

STATEMENT OF OBJECTS AND REASONS.

The proviso to sub-section (1) of section 5 of the Bombay Probation of Offenders Act, 1938, makes it obligatory that the offender or one of his sureties should have a fixed place of abode or regular occupation within the local limits of the Court's jurisdiction when a probation order is to be passed. This limitation causes difficulty in cases where mofussil offenders have committed an offence within the area to which the Act is applied, but know no one residing within the local limits of the Court's jurisdiction who can be offered as surety. It is proposed to delete the proviso to section 5 (1) of the said Act.

Dated 14th August 1947.

MORARJI DESAI.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXXVII OF 1947.]

(As read for the third time and passed by
the Legislative Assembly on the 12th
September 1947.)

A Bill to amend the Bombay Probation
of Offenders Act, 1938.

[Mr. MORARJI DESAI, M.L.A.]



The Bombay Government Gazette

PUBLISHED BY AUTHORITY

FRIDAY, 28TH NOVEMBER 1947.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

	PAGES
BOMBAY ACT No. XXXVII OF 1947—An Act to repeal the Bombay Prevention of Gambling (Amendment) Act, 1941, and to re-enact certain provisions thereof and to amend the Bombay Prevention of Gambling Act, 1887	359-360
BOMBAY ACT No. XXXVIII OF 1947—An Act to amend the Bombay Probation of Offenders Act, 1938	361
BOMBAY ACT No. XXXIX OF 1947—An Act to repeal the City of Bombay Municipal (Post-War Reconstruction Fund) Act, 1944, and to re-enact certain provisions thereof with modifications	361-362

The following Act of the Bombay Legislature having been assented to by the Governor on the 22nd November 1947 is hereby published for general information.

P. M. LAD,

Secretary to the Government of Bombay.
Legal Department.

BOMBAY ACT No. XXXVII OF 1947.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 28th November 1947.)

An Act to repeal the Bombay Prevention of Gambling (Amendment) Act, 1941 and to re-enact certain provisions thereof and to amend the Bombay Prevention of Gambling Act, 1887.

WHEREAS in view of the provisions of sub-section (4) of section 9 of the Government of India Act, 1935, it is expedient to repeal the Bombay Prevention of Gambling (Amendment) Act, 1941, and to re-enact certain provisions thereof;

26
Geo. 5,
ch. 2.
Bom.
II of
1941.

AND WHEREAS it is expedient to amend the Bombay Prevention of Gambling Act, 1887; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Prevention of Gambling (Amendment) Act, 1947.

Repeal of Bom. II of 1941 and re-enactment of sections 2 and 3 thereof.

2. The Bombay Prevention of Gambling (Amendment) Act, 1941, is repealed and sections 2 and 3 thereof are re-enacted.

Bom.
IV of
1887.

Bom.
II of
1941.

Amendment of section 4 of Bom. IV of 1887.

3. In section 4 of the Bombay Prevention of Gambling Act, 1887 (hereinafter called the said Act), for the portion beginning with the words "shall, on conviction, be punishable," and ending with the words "less than six months and fine shall not be less than one thousand rupees." the following shall be substituted, namely:—

Bom.
IV of
1887.

"shall, on conviction, be punishable with imprisonment which may extend to six months and with fine:

— Provided that—

(a) for a first offence such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees;

(b) for a second offence such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees; and

(c) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees."

Amendment of section 5 of Bom. IV of 1887.

4. In section 5 of the said Act, for the portion beginning with the words "shall, on conviction," and ending with the words "which may extend to one month." the following shall be substituted:—

"shall, on conviction, be punishable with imprisonment which may extend to six months and with fine:

Provided that—

(a) for a first offence such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees;

(b) for a second offence such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees; and

(c) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees."

The following Act of the Bombay Legislature having been assented to by the Governor on the 22nd November 1947 is hereby published for general information.

P. M. LAD,

Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXXVIII OF 1947.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 28th November 1947.)

An Act to amend the Bombay Probation of Offenders Act, 1938.

Bom. XIX
of 1938.

WHEREAS it is expedient to amend the Bombay Probation of Offenders Act, 1938, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Probation of Offenders (Amendment) Act, 1947.

Bom. XIX
of 1938.

2. The proviso to sub-section (1) of section 5 of the Bombay Probation of Offenders Act, 1938, shall be deleted.

Amendment
of section 5
of Bom. XIX
of 1938.

The following Act of the Bombay Legislature having been assented to by the Governor on the 24th November 1947 is hereby published for general information.

P. M. LAD,

Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXXIX OF 1947.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 28th November 1947.)

An Act to repeal the City of Bombay Municipal (Post-War Reconstruction Fund) Act, 1944, and to re-enact certain provisions thereof with modifications.

26
Geo.
5. Ch.
2.
Bom.
XIII
of
1944.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal the City of Bombay Municipal (Post-War Reconstruction Fund) Act, 1944, and to re-enact certain provisions of the said Act with modifications; It is hereby enacted as follows:—

1. This Act may be called the City of Bombay Municipal (Post-War Reconstruction Fund) (Repeal and Re-enactment) Act, 1947.

Repeal and re-enactment of Bom. XIII of 1944 with modifications.

Corporation to sanction transfer of amounts from one major head of account to another.

Duration of Act.

2. The City of Bombay Municipal (Post-War Reconstruction Fund) Act, 1944, shall be repealed and re-enacted, subject to the following modifications, namely:—

Bom.
XIII
of
1944.

(1) Sections 4 to 7 shall be deleted.

(2) For section 8 the following shall be substituted, namely:—

"8. The Corporation may, on the recommendation of the standing committee, sanction the transfer from one major head of account to another of any amount credited to the post-war reconstruction fund."

(3) In section 9, for the words "provided that" the following shall be substituted, namely:—

"Provided that expenditure out of the post-war reconstruction fund on any purpose other than the purposes for which expenditure had, pursuant to this Act, been postponed, shall not be provided for or made unless the Corporation, on the recommendation of the standing committee, has passed a resolution that such expenditure should forthwith be incurred out of the said fund:

Provided further that".

(4) In section 10, the proviso shall be deleted.

(5) Section 11 shall be deleted.

(6) For section 12, the following shall be substituted, namely:—

"12. (1) This Act shall remain in force up to and inclusive of the 31st day of March 1952.

(2) Any amount remaining unexpended in the post-war reconstruction fund on the aforesaid date shall be credited to the municipal fund."